

### **COUNTY OF LOS ANGELES**

#### DEPARTMENT OF PUBLIC WORKS

900 SOUTH FREMONT AVENUE ALHAMBRA, CALIFORNIA 91803-1331 Telephone: (626) 458-5100 www.ladpw.org

ADDRESS ALL CORRESPONDENCE TO: P.O. BOX 1460 ALHAMBRA, CALIFORNIA 91802-1460

IN REPLY PLEASE REFER TO FILE: EP-4

February 20, 2003

The Honorable Board of Supervisors County of Los Angeles 383 Kenneth Hahn Hall of Administration 500 West Temple Street Los Angeles, CA 90012

Dear Supervisors:

PUBLIC HEARING FOR SOLID WASTE MANAGEMENT FEE ALL SUPERVISORIAL DISTRICTS 3 VOTES

#### IT IS RECOMMENDED THAT YOUR BOARD AFTER THE PUBLIC HEARING:

- 1. Approve the proposed changes to the manner of imposing the waste management fee to include haulers that transport waste from this County.
- 2. Find that the proposed Ordinance amending Chapter 20.88 of Title 20, Division 4, of the Los Angeles County Code is for the purpose of meeting operating expenses and therefore exempt from the California Environmental Quality Act pursuant to Section 21080(b)(8) of the Public Resources Code.
- 3. Adopt the proposed Ordinance amending Chapter 20.88 of Title 20, Division 4, of the Los Angeles County Code.

#### PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The Solid Waste Management Fee provides funding for the reasonable and necessary costs incurred by the County of Los Angeles in the preparation, maintenance, adoption, and implementation of the Countywide Integrated Waste Management Plan mandated by Section 40000 et seq. of the Public Resources Code. This includes, but is not limited to, providing staff to the Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force, operation at the County level of the State's Disposal Reporting System, and other functions as needed to carry out the above.

The Honorable Board of Supervisors February 20, 2003 Page 2

The Solid Waste Management Fee is collected from operators of disposal sites, transformation facilities, and transfer/processing stations, located within the County of Los Angeles. Based on recent waste disposal tonnage figures reported from neighboring counties, there is an increasing amount of solid waste emanating from the County of Los Angeles that is being disposed outside of the County. This waste is transported primarily by waste haulers. This disposed solid waste is currently not subject to the solid waste management fee due to a loophole. The proposed Ordinance will close the loophole and make such waste disposal subject to the fee. Adoption of this Ordinance is critical to avert declining revenues and ensure a stable and level revenue source that will allow the County to defray its costs and continue to provide and fulfill its Countywide solid waste management responsibilities.

#### <u>Implementation of Strategic Plan Goals</u>

This action is consistent with the County Strategic Plan Goal of Fiscal Responsibility as the proposed Ordinance will provide sufficient funds to carry out critical functions in regard to the preparation, maintenance, adoption, and implementation of the Countywide Integrated Waste Management Plan, providing staff to the Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force, operation at the County level of the State's Disposal Reporting System, and other functions as needed to carry out integrated solid waste management functions.

It is also consistent with your Board's approval of the Los Angeles County Integrated Waste Management Summary Plan and the Los Angeles County Countywide Siting Element on January 27, 1998. These documents were subsequently approved by the California Integrated Waste Management Board in June 1998 and June 1999, respectively. It also satisfies the goal of Service Excellence in that it allows for the necessary level of solid waste management that protects public health and the environment which improves the quality of life in the County.

#### FISCAL IMPACT/FINANCING

There will be no impact to the County General Fund. Revenue to fund the reasonable and necessary costs incurred by the County of Los Angeles in the preparation, maintenance, adoption, and implementation of the Countywide Integrated Waste Management Plan mandated by Section 40000 et seq. of the Public Resources Code, which includes, but is not limited to, providing staff to the Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force, operation at the County level of the State's Disposal Reporting System, and other functions as needed to carry out the

The Honorable Board of Supervisors February 20, 2003 Page 3

above is paid solely through the existing fees collected and those that will be established in this Ordinance.

The 'Right to Vote on Taxes Act' (Proposition 218) has been reviewed to determine if a vote of the electorate is required in regard to the proposed Ordinance. An election is not required nor applicable because the fee is in no way directly associated with, or an incident of, property ownership. Furthermore, the proposed Ordinance has no impact on property tax bills, including assessed values or dollar amounts charged.

#### FACTS AND PROVISIONAL/LEGAL REQUIREMENTS

The Solid Waste Management Fee provides funding for the reasonable and necessary costs incurred by the County of Los Angeles in the preparation, maintenance, adoption, and implementation of the Countywide Integrated Waste Management Plan mandated by Section 40000 et seq. of the Public Resources Code. This includes, but is not limited to, providing staff to the Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force, operation at the County level of the State's Disposal Reporting System, and other functions as needed to carry out the above.

The proposed Ordinance will make solid waste disposed by haulers out of Los Angeles County subject to the fee. This is critical so as to avert declining revenues and ensure a stable and level revenue source that will allow the County to provide a level of service to fulfill all of its solid waste management responsibilities.

To comply with the requirements of Sections 66016, 66018(a) and 6062a of the Government Code, the fee increases may only be ordered after a public hearing. These Code Sections also require that notice of the hearing be mailed to all interested parties who file a written request for such and that notice be published two times in a newspaper of general circulation within a ten-day period with at least five intervening days. As of the filing of this item, no valid written request was on file with Public Works nor in the Executive Office of the Board of Supervisors.

The proposed Ordinance has been reviewed and approved as to form by County Counsel.

#### **IMPACT ON CURRENT SERVICES (OR PROJECTS)**

The collection of the Solid Waste Management Fee from waste collectors will allow this Department to continue to provide for the preparation, maintenance, adoption, and implementation of the Countywide Integrated Waste Management Plan mandated by Section 40000 et seq. of the Public Resources Code. This includes, but is not limited to,

The Honorable Board of Supervisors February 20, 2003 Page 4

providing staff to the Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force, operation at the County level of the State's Disposal Reporting System, and other functions as needed to carry out the above. Adoption of the ordinance will not impact current services. However, if the Ordinance is not adopted the Department will be negatively impacted and General Fund money may be required.

#### **ENVIRONMENTAL DOCUMENTATION**

The proposed Ordinance establishes and collects a fee to fund the reasonable and necessary costs incurred by the County of Los Angeles in the preparation, maintenance, adoption, and implementation of the Countywide Integrated Waste Management Plan and is exempt from the California Environmental Quality Act pursuant to the Public Resources Code, Section 21080(b)(8).

#### CONCLUSION

Upon Board approval, please return two approved copies of this letter and the Ordinance to this Department.

Respectfully submitted,

JAMES A. NOYES
Director of Public Works

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cc: Chief Administrative Office

County Counsel

#### **ANALYSIS**

This ordinance amends Chapter 20.88 of Title 20 - Utilities of the Los Angeles

County Code to revise certain provisions relating to the solid waste management fee.

LLOYD W. PELLMAN

County Counsel

FREDERICK W. PFAEFFLE

Senior Deputy County Counsel

Public Works Division

FWP:asm

8/18/02 (requested)

12/20/02 (revised)

ORDINANCE NO.	
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An ordinance amending Title 20 – Utilities of the Los Angeles County Code, relating to the solid waste management fee.

The Board of Supervisors of the County of Los Angeles ordains as follows:

**SECTION 1.** Section 20.88.020 is hereby amended to read as follows:

#### 20.88.020 Definitions.

- A. "Director" means the director of public works for the county of Los Angeles or his/her authorized representative.
- B. "Disposal site" means the place, location, tract of land, area or premises in use, intended to be used, or which has been used for the disposal of solid wastes.

  "Disposal site" includes a solid waste landfill, as defined in Section 4602740195.1 of the Public Resources Code.
- C. "Dispose" means the final deposition onto land, into the atmosphere, or into the waters of the state.
- D. "Enforcement order" means an order issued by the director pursuant to Section 20.88.070A.
- CE. "Hazardous waste" means all those wastes defined by Section 40141 of the Public Resources Code and/or Section 25117 of the Health and Safety Code.
- F. "Hearing officer" means a person designated by the director as the hearing officer pursuant to Section 20.88.070C.2.

- pg. "Operator" means the person or entity-within the county of Los Angeles to whom permission is granted, pursuant to Chapter 20.72 of this Code or Section 40000 et seq. of the Public Resources Code, to operate, within the county of Los Angeles, a waste exporter, disposal site, transformation facility or transfer/processing station for solid waste or a combination of solid waste and hazardous waste is granted under Section 40000 et seq. of the Public Resources Code.
- EH. "Solid waste" means all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. "Solid waste" does not include any of the following:
- 1. hHazardous waste as defined in Public Resources Code section
  40141.-or
- mMaterials or substances having commercial value which have been that are salvaged for reuse, recycling or resale and that are not disposed.
- Radioactive waste regulated pursuant to the Radiation Control
   Law, section 114960 et seq. of the Health and Safety Code.

- 4. Medical waste which is regulated pursuant to the Medical Waste

  Management Act, section 117600 et seq. of the Health and Safety Code, and which is

  not deemed to be solid waste pursuant to section 40191(b)(3) of the Public Resources

  Code.
- F. "Solid waste disposal" or "ultimate disposal" means the final deposition of solid wastes onto land, into the atmosphere, or into the waters of the state.
- wastes and to temporarily store, separate, convert, or otherwise process the materials in the solid wastes and/or to transfer the solid wastes directly from smaller to larger vehicles or railroad trains for transport.
- HJ. "Transformation" means incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. Transformation does not include composting, pyrolysis, distillation, gasification, or other biological conversion.
- <u>IK</u>. "Transformation facility" means a facility whose principal function is to receive and manage solid waste through the transformation process.
- L. "Waste exporter" means a business that collects, transports, conveys, or hauls any solid waste from a location originating within the county of Los Angeles to a location outside of the county of Los Angeles.

SECTION 2. Section 20.88.030 is hereby amended to read as follows:

20.88.030 CollectionPayment of fee.

A. The operator of every disposal site, transformation facility, transfer/processing station, or waste exporter shall be liable for the payment of the applicable solid waste management fee. In the event any fees or administrative penalties have accrued, and remain unpaid, in whole or in part, at the time any operator transfers ownership of its business to a new operator, both the predecessor and successor operators shall be jointly and severally liable for the unpaid fees and any unpaid administrative penalties. Except as noted in Section 20.88.040, the solid waste management fee shall be collected from all operators of disposal sites, transformation facilities and transfer/processing stations located within the county of Los Angeles. For disposal sites, transformation facilities or transfer/processing stations receiving both hazardous and/or solid waste, the fee shall be based only on the solid waste received.

B. The solid waste management fee shall become due and payable on the first day of each month for the solid waste received, collected, conveyed, or hauled during the preceding month. Fees shall be delinquent 30 days after they are due and payable. Delinquent fees shall subject an operator to the enforcement provisions and administrative penalties set forth in Section 20.88.070.

4

C. Fees shall be made payable to the "Los Angeles County Department of Public Works" and transmitted to the Department of Public Works, Cashier's Office,

900 South Fremont Avenue, Alhambra, California 91803-1131. Payment of fees shall be accompanied by 1) a statement from the operator specifying and certifying the total tons or, if applicable, cubic yards of solid waste received, collected, conveyed, or hauled during the preceding month and, 2) if applicable, the notice of the claim of exemption required by Section 20.88.040E.

SECTION 3. Section 20.88.040 is hereby amended to read as follows:

20.88.040 Exemptions from fee. The following activities and entities are exempt from the payment of the solid waste management fee:

- A. Facilities or portions thereof, established for research purposes only, funded primarily by government grants;
- B. Drilling-mud disposal sites for short-term use (less than one year) on a one-time-use per site basis where significant quantities of hazardous or toxic materials are not present in the mud, fluids or cuttings from drilling and associated operations, and if the sites have currently valid waste discharge requirements from a California Regional Water Quality Board;
  - Farm or ranch disposal sites for one- or two-family use;
- D. Resource recovery facilities intended only for demonstration purposes, not to exceed two years, not operated for profit, and not accepting significant quantities of waste;

5

- waste management fee for any. This exemption shall not be applicable to solid waste received at a transfer/processing station for transportation to disposal sites or transformation facilities located outsidewithin the county of Los Angeles;. To qualify for the exemption, transfer/processing stations must notify the director in writing of the claim of exemption. The notice must be in the form prescribed by the director, must be submitted for each calendar month for which the exemption is sought, and must be signed by an authorized officer or principal of the operator of the transfer/processing station who must attest under penalty of perjury to the facts on which the exemption is based, including a statement that the solid waste which is the subject of the exemption has not been transported and/or disposed outside of the county of Los Angeles;
- F. Industrial disposal sites located on the producer's property to be used for the exclusive disposal of insignificant quantities of the owner's wastes. These wastes must be nonhazardous, and their disposal shall not pose a threat to the public health, safety, or the environment. To qualify for the exemption, an industrial disposal site must not be subject to waste discharge requirements prescribed pursuant to section 13263 of the Water Code and the industrial disposal site must not be required to obtain a solid waste facilities permit pursuant to section 44000 et seq. of the Public Resources Code;
- G. Evaporation ponds for disposing of salts from oil and geothermal drilling operations, if the ponds have <u>been prescribed</u> waste discharge requirements <u>pursuant</u>

  6

#### to section 13263 of the Water Code;

- H. Disposal of ash residuals produced at a transformation facility.
   SECTION 4. Section 20.88.050 is hereby amended to read as follows:
   20.88.050 Calculation of Ssolid waste management fee.
- A. The county solid waste management fee shall become due and payable by each operator on the first day of each month beginning September 1, 1991. The solid waste management fee shall be setcalculated for each operatordisposal site, transformation facility, transfer/processing station, or waste exporter according to the following schedule, based upon the tons or cubic yardsvolume or tonnage of solid waste received, or collected, conveyed, or hauled total receipts collected, during the preceding a calendar month.
  - B. Disposal Sites, Transfer/Processing Stations, or Transformation Facilities.
- 1. Where specific tonnages or volumes of waste are measured, Except as set forth below, the solid waste management fee shall be \$0.86 per ton erof solid waste. In situations where the director determines that solid waste cannot be measured in tons, solid waste shall be measured in cubic yards and the solid waste management fee shall be \$0.52 per cubic yard.
- Where the tonnage or volume of specific waste received is not measured, the solid waste management fee shall be set at 10 percent of gross receipts for waste received.

3. Where receipts for disposal system operations are owned and subsidized by an operator, the assessed fee shall be the greater of 1 or 2.

SECTION 5. Section 20.88.060 is hereby amended to read as follows:

20.88.060 Payment of feesRecord retention and access to records.

- A. Fees shall be made payable to the "Los Angeles County Department of Public Works," and transmitted to the Department of Public Works, Cashier Station, 900 South Fremont Avenue, Alhambra, California 91803, within 30 days following the fee due date. Payment shall be accompanied by a statement from the operator specifying and certifying as to total amount of gross receipts, or tonnage or volume of solid waste, received during the preceding month. Each operator shall maintain records, information, and documentation that substantiate the tons or cubic yards of solid waste received, collected, conveyed, or hauled during each calendar month at each of the operator's disposal sites, transformation facilities, transfer/processing stations, and waste exporter. The records, information, and documentation shall include the procedures the operator used to determine and measure the quantity of such solid waste. The operator shall maintain such records, information, and documentation for a period of three years from the date such solid waste was received, collected, conveyed, or hauled by the operator.
- B. Documentation substantiating the gross receipts, volume and/or tonnage upon which the solid waste management fee is assessed shall be maintained by the operator for a period of three years and submitted, upon three business days' written 8

written notice from the director, an operator shall provide the director with access for inspection and copying of all records, information, or documentation maintained pursuant to Section 20.88.060A.

C. Upon receipt of a minimum of three days' written notice, an operator shall provide access to the director for the purpose of reviewing the procedures for determining or measuring the tonnage, volume, and gross receipts at the disposal site, transformation facility, and/or transfer/processing station in order to verify the accuracy of the submitted data.

D. Fees which are not remitted to the director within 30 days following the due date provided in this part are delinquent.

E. In the event fees owed become delinquent, the operator shall pay a penalty of 10 percent of the amount of fees owed for each month, or a portion thereof, following the initial 30 days after the due date. The director shall not be obligated to notify the operator of the accumulation of penalties owed.

SECTION 6. Section 20.88.070 is hereby amended to read as follows:

20.88.070 Failure to complyEnforcement order, administrative penalty, and appeals.

Any operator who fails to comply with the provisions of this chapter shall be cited for such violation. Notice of this violation shall be transmitted to the enforcement agency for appropriate enforcement action under the terms of the permit issued under 9

Section 66796 et seq. of the Government Code, Section 40000 et seq. of the Public Resources Code.

#### Enforcement order.

- 1. The director shall have the authority to issue an enforcement order for any violation of any provision of this chapter. The enforcement order shall provide notice of the violation, the applicable administrative penalties, and the availability of an administrative appeal.
- 2. Service of any enforcement order shall be upon the person or entity in real or apparent charge or control of the involved disposal site, transformation facility, transfer/processing station, or waste exporter. Service shall be by personal delivery or by registered or certified mail, return receipt requested, at the director's election. In the event, after reasonable effort, the director is unable to serve the enforcement order or decision of the hearing officer as specified above, service shall be accomplished by posting a copy of the enforcement order or decision of the hearing officer on the premises of the disposal site, transformation facility, transfer/processing station, or waste exporter. The date of service is deemed to be the date of mailing, personal delivery, or posting, as applicable.
- The director's issuance of an enforcement order shall be final unless an appeal from the order has been filed as provided in Section 22.88.070.C.

10

B. Administrative penalties.

- 1. Delinquent Solid Waste Management Fees. Solid waste management fees shall become delinquent if not paid within 30 days after they are due.

  Each day that a solid waste management fee is delinquent shall constitute a separate violation of this chapter. Delinquent solid waste management fees shall subject the violator to an administrative penalty which shall be the lesser of:
- a. Ten percent of the delinquent amount for each month, or any portion thereof, that the fees are delinquent, or
- b. In any calendar year, \$100 for the first day any fees are delinquent, \$200 for the second day any fees are delinquent, and \$500 a day for each additional day that the fees are delinquent.

Notwithstanding subsections a and b above, the penalty shall be no less than \$500 for each calendar month or part thereof that any fees are delinquent.

- 2. Other violations. Except as provided in Section 20.88.070B, a violation of this chapter shall subject the violator to an administrative penalty in the amount \$100 for the first violation, \$200 for the second violation, and \$500 for each additional violation within any given calendar year. Each day that any person or entity fails to comply with an enforcement order shall constitute a separate violation.
  - C. Administrative appeal of an enforcement order.
- 1. Any person or entity upon whom an enforcement order has been served may appeal the order by filing a written notice of appeal with the director no later than 30 days after the date of service of the enforcement order. The notice of appeal

shall include any statements and evidence that the appellant wishes to be considered in connection with the appeal.

2. The appeal shall be heard by a hearing officer designated by the director. The hearing officer shall conduct a hearing concerning the appeal within 45 days from the date that the appeal is filed and shall give an appellant 10 days' prior written notice of the date of the hearing. The hearing officer shall notify the appellant of the hearing officer's decision within a reasonable period of time after the hearing in the manner described in Section 20.88.070A.2. The hearing officer shall either sustain, rescind, or modify the enforcement order. The decision of the hearing officer shall be final and effective on the date of decision, shall be issued to the appellant in writing, and shall not be subject to further administrative appeal. The hearing officer shall have the power to waive any portion of the administrative penalty in a manner consistent with his or her written decision.

#### D. Judicial review.

- 1. Within 30 days after service of the written decision of the hearing officer, a person contesting that decision may seek review by filing an appeal to be heard by the superior court pursuant to Government Code section 53069.4.
- 2. Any person or entity wishing to appeal a decision of the hearing officer must serve a notice of the appeal upon the director in person or by first-class mail within 30 days after service of the decision of the hearing officer.

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**SECTION 7.** The operative date of this ordinance shall be the first day of the month commencing after the date on which this ordinance becomes effective.

[2088010FPCOC]

## INSTRUCTION SHEET FOR PUBLISHING LEGAL ADVERTISEMENTS

TO: Executive Officer-Clerk of the Board

Board of Supervisors County of Los Angeles

FROM: Department of Public Works

**Environmental Programs Division** 

NOTICE OF HEARING ORDINANCE AMENDING TITLE 20, DIVISION 4 OF THE LOS ANGELES COUNTY CODE

#### **Publishing**

In accordance with Sections 66016, 66018(a) and 6062a of the Government Code, the fee increases may only be ordered after a public hearing. These Code Sections also require that notice of the hearing be mailed to all interested parties who file a written request for such and that notice be published two times in a newspaper of general circulation within a ten-day period with at least five intervening days. As of the filing of this item, no valid written request was on file with Public Works nor in the Executive Office of the Board of Supervisors. The period of notice commences upon the first day of publication and terminates at the end of the tenth day, including therein the first day.

Forward five reprints of the attached advertisement to the County of Los Angeles Department of Public Works, Environmental Programs Division, P.O. Box 1460, Alhambra, California 91802-1460.

Should there be any questions regarding this matter, please contact Mr. Mike Mohajer, at (626) 458-3500, Monday through Thursday, 7 a.m. to 5:30 p.m.

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Attach.

# NOTICE OF HEARING ORDINANCE AMENDING TITLE 20, DIVISION 4 OF THE LOS ANGELES COUNTY CODE

Notice is hereby given that a proposed Ordinance by the Director of Public Works has been filed with the Board of Supervisors of the County of Los Angeles as the governing body recommending the requirement that waste exporter businesses located or operating within the County of Los Angeles which collect solid waste for transportation to disposal sites or transformation facilities located outside the County of Los Angeles to pay the Solid Waste Management Fee of \$0.86 per ton or \$0.52 per cubic yard to the Department of Public Works.

Currently, the Solid Waste Management Fee is collected from operators of disposal sites, transformation facilities, and transfer/processing stations, located within the County of Los Angeles. Based on recent tonnage figures from neighboring counties, there seems to be a trend toward an increasing amount of waste being disposed outside of the County. This has an increasingly negative financial impact to the Department of Public Works as less money is being received to fund necessary and previously budgeted solid waste diversion programs. If the proposed Ordinance is not implemented, the Department will experience declining Solid Waste Management Fee revenues.

Tuesday, \_\_\_\_\_\_, 2003, at 9:30 a.m., in Room 381 of the Kenneth Hahn Hall of Administration, 500 West Temple Street, Los Angeles, California 90012, is the time and place which has been fixed by the Board of Supervisors to consider this matter. Any person wishing to be heard on this matter may appear before the Board of Supervisors and show cause why the proposal should not be adopted.

For further information regarding this matter, please contact Mr. Mike Mohajer, of this office, at (626) 458-3500, Monday through Thursday, 7 a.m. to 5:30 p.m.

Upon 72 hours' notice, the County can provide program information and publications in alternate formats or make other accommodations for people with disabilities. In addition, documents are available at the Kenneth Hahn Hall of Administration in Los Angeles (500 West Temple Street), which is accessible to individuals with disabilities. To request accommodations ONLY, or for more ADA information, please contact our ADA Coordinator at (626) 458-4081 or TDD (626) 282-7829, Monday through Thursday, 7 a.m. to 5:30 p.m.

Si, no entiende este anuncio o necesita mas informacion, por favor llamar a Rosa Moreno del Departamento de Obras Publicas al (626) 458-6974, de lunes a jueves, 7 a.m. a 5:30 p.m.

VIOLET VARONA-LUKENS Executive Officer-Clerk of the Board of Supervisors Los Angeles County